



28 JUN 2002

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In re Application of	:	
JANKA, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/009,287	:	
PCT No.: PCT/EP01/01663	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 15 February 2001	:	
Priority Date: 22 February 2000	:	
Attorney's Docket No.: GK-ZEI-3140	:	
For: METHOD AND SYSTEM FOR DETECTING	:	
THE LIGHT COMING FROM A SAMPLE	:	

This decision is in response to applicant's "Petition to Revive Pursuant to 37 CFR 1.137(b)" filed 06 November 2001 in the United States Patent and Trademark Office (USPTO). The petition fee of \$1280.00 has been provided.

BACKGROUND

On 15 February 2001, applicant filed international application PCT/EP01/01663, which claimed priority of an earlier application filed 22 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 August 2001. A Demand for international preliminary examination, in which the United States was elected, was not filed prior to the expiration of nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 22 October 2001.

On 06 November 2001, applicant filed the present petition.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional." and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the required reply is the payment of the Basic National Fee under 37 CFR 1.492(a). Applicant has provided a check covering payment of the fee.

As to Item (2) the appropriate petition fee of \$1280.00 as required by 37 CFR 1.17(m) has been authorized to be deducted from Deposit Account No.: 50-1529.

With regard to Item (3), applicant's statement that, "Abandonment was unintentional, the national phase application was overlooked and was not timely filed" is being interpreted to mean that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. If this is an incorrect reading of applicant's statement applicant should contact the PCT Legal Office immediately. Applicant's statement and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

It is noted that the second inventor is listed as Volker JUNGEL in the published international application and Volker JUENGEL on the executed declaration filed 06 November 2001. This raises the question as to whether this discrepancy is the result of a typographical error or a name change. In order to continue processing of the application applicant is required to provide an explanation for this discrepancy. If the discrepancy is the result of a name change, a petition under 37 CFR 1.182 is required. See MPEP 605.04(c) for further requirements.

CONCLUSION

Applicant's petition for revival pursuant to 37 CFR 1.137(b) is **GRANTED**.

As authorized, \$260.00 will be deducted from Deposit Account 50-1529. (\$130.00 for payment of the surcharge for providing an oath or declaration of the inventors later than twenty months from the earliest claimed priority date and \$130.00 as payment of the processing fee for providing an English translation of the International Application later than twenty months from the earliest claimed priority date.)

Applicant is hereby afforded **TWO MONTHS** from the mail date of this decision to furnish the proper reply as indicated above. Failure to file the reply within the time period provided will result in abandonment. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office



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